

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Revision of the Commission's Rules)	CC Docket No. 94-102
To Ensure Compatibility with)	
Enhanced 911 Emergency Calling Systems)	
)	
E911 Compliance Deadlines for)	
Non-Nationwide Tier III CMRS Carriers)	

**Supplement to Leaco Rural Telephone Cooperative, Inc. Petition for Waiver
of Section 20.18(g) of the Commission's Rules**

Leaco Rural Telephone Cooperative, Inc. ("Leaco"), by its attorneys and pursuant to the *Stay Order* issued October 10, 2003 by the Federal Communications Commission ("FCC" or "Commission"),¹ hereby supplements its petition for a temporary waiver of Section 20.18(g) of the Commission's rules filed in the above-captioned proceeding on August 11, 2003 ("*Waiver Petition*"). In the *Stay Order*, the Commission, *inter alia*, gave Tier III carriers, that like Leaco had requested waivers from the Commission's E911 Phase II handset deployment deadlines, additional time to supplement their existing waiver requests to provide additional documentation to support their requested waivers. Specifically the Commission has requested "substantial evidence that the relief is as narrowly tailored as possible or that the petitioner has put in place a clear path to compliance."²

¹ *In the matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems E911 Compliance Deadlines for Non-Nationwide Tier III CMRS Carriers*, CC Docket No. 94-102, Order to Stay, FCC 03-241 (rel. October 10, 2003) ("*Stay Order*").

² *Stay Order* at ¶ 17.

I. LEACO HAS DEMONSTRATED A CLEAR PATH TO COMPLIANCE

In its waiver petition Leaco has demonstrated a clear path to compliance. Due to the rural nature of its system, Leaco provides service throughout most of its coverage area with cells having the minimal measure of overlap needed to permit reliable cellular communications, but far from sufficient to permit the triangulation of a mobile subscriber's geographic position that a network-based E911 solution needs to achieve Section 20.18(h) accuracy.³ Thus, Leaco is forced to employ a handset-based solution to achieve Phase II compliance.

Leaco presently operates a time division multiple access ("TDMA") network for which no handset-based E911 location solutions are available.⁴ Accordingly, meeting the benchmarks set forth in Sections 20.18(g)(1)(i)-(iv) of the Commission's rules requires Leaco to migrate its TDMA network to either a Global System for Mobile Communications ("GSM") or a code division multiple access ("CDMA") digital technology. Leaco has begun this process and plans to make a final technology choice and begin its network overbuild by the second quarter of 2004.⁵ Leaco does not expect to complete the overlay throughout its network before September, 2005 due to technical network and cost considerations inherent to serving rural New Mexico.

³ In recent conversations, a representative of the State of New Mexico Department of Administration and Finance, which oversees funding for implementation of wireless E911 throughout the state, has acknowledged that the configuration of Leaco's network would not allow triangulation required for a network-based solution and that a GPS handset-based solution appeared to be Leaco's only option for Phase II compliance. *See* Exhibit 1 attached hereto at item 4.

⁴ Documentation as to the unavailability of TDMA-based ALI-capable handsets is found in Exhibit 2 hereto. TDMA handset unavailability has been acknowledged by the State of New Mexico. *See* Exhibit 1 at item 4.

⁵ As the attached Declaration of John Smith indicates, approximately nine months ago, Leaco obtained estimates from Lucent on the costs both of undertaking a CDMA overlay and of undertaking a GSM changeout. Leaco has requested and is awaiting delivery of updated information from Lucent.

Leaco plans to begin making ALI-capable handsets available as each portion of its network overlay is completed.

II. THE RELIEF REQUESTED IS NARROWLY TAILORED

In its *Waiver Petition*, Leaco requested that the deadlines for Leaco to begin selling and activating handsets (and to begin providing Phase II data to PSAPs), and to ensure that 25 percent of the handsets sold and activated are ALI-capable, be extended to September 1, 2004; that the deadline for ensuring that 50 percent of the handsets sold and activated are ALI-capable be extended to January 1, 2005; and that the deadline for ensuring that 100 percent of the handsets sold and activated are ALI-capable be extended to September 1, 2005. Leaco is not seeking a waiver of the ultimate December 31, 2005 deadline for achieving 95 percent penetration of ALI-capable handsets.

Leaco's waiver request is narrowly tailored in that it seeks relief only until such time as it is able to complete its planned interface conversion. Although Leaco plans to sell and activate ALI-capable handsets before its network conversion is complete, the handsets will have severely limited use since they would be unable to fully function on Leaco's TDMA network. Such handsets would not function at all in digital mode and would be relegated to operating on the analog portion of Leaco's TDMA network. Selling digital handsets to customers before Leaco converts its entire network to digital CDMA or GSM will also subject customers to spotty coverage and dropped calls. Additionally, Leaco believes that many customers will be reluctant to exchange their higher power analog phones for digital handsets with a reduced range. Thus, Leaco anticipates that there may be difficulties in marketing such handsets prior to the time the system is fully cut over. Despite these uncertainties, Leaco believes that the handset availability benchmarks it has proposed may be achievable. Accordingly, granting the relief sought by

Leaco will serve the public interest by supporting a seamless transition to Phase II functionality with minimal disruption to existing levels of service.

III. LEACO'S DEPLOYMENT SCHEDULE MEETS COMMUNITY EXPECTATIONS

In the *Stay Order*, the Commission indicated that it “expects all carriers seeking relief to work with the state and local E911 coordinators and with all affected PSAPs in their service area, so that community expectations are consistent with a carrier’s projected compliance deadlines.”⁶ Leaco has been and continues to be working closely with state emergency services administrators with respect to E911 deployment. Most recently, John Smith, Leaco’s Chief Executive Officer, participated on a conference call with three representatives of the State of New Mexico (two members of the Department of Finance and Administration that oversees funding for E911 throughout the State and one of the State’s contractors) to discuss the status of PSAP readiness, funding and Leaco’s plans to become Phase II compliant. The notes of Ron Whinery, a contractor for the State, concerning the substance of that call were circulated to all call participants. Those notes and the accompanying Excel spreadsheet show that Leaco’s territory is not within the State of New Mexico’s E911 funding priorities for fiscal year 2004.⁷ The notes also show that while the state is attempting to formulate a cost recovery mechanism for monthly recurring costs (*e.g.*, transport costs to route calls to the PSAPs), it does not have a mechanism in place to allow for recovery of nonrecurring costs. Leaco’s deployment schedule is consistent with the E911 funding priorities identified by the State of New Mexico and thus meets community expectations. These contacts also demonstrate Leaco’s ongoing good faith efforts to implement E911 capabilities in a timely yet realistic manner.

⁶ *Stay Order* at ¶ 28.

⁷ See Exhibit 1, following item 5 and accompanying Excel spreadsheet.

IV. CONCLUSION

Based on the foregoing, Leaco respectfully requests that the Commission grant Leaco a temporary limited waiver of Section 20.18(g)(1)(i)-(iv) of its rules as requested herein and permit Leaco to implement its Phase II solution based on the schedule set forth in its *Waiver Petition*.

Respectfully submitted,

**LEACO RURAL TELEPHONE
COOPERATIVE, INC.**

By: _____/s/_____

Michael R. Bennet
Howard S. Shapiro
Bennet & Bennet, PLLC
1000 Vermont Avenue, NW
Tenth Floor
Washington, DC 20005
202-371-1500

Its Attorneys

Dated: November 11, 2003

DECLARATION OF JOHN SMITH

I, John Smith, do hereby declare under penalty of perjury the following:

1. I am General Manager of Leaco Rural Telephone Cooperative, Inc.
2. Approximately nine months ago, Leaco obtained estimates from Lucent on the costs both of undertaking a CDMA overlay and of undertaking a GSM changeout. Leaco has requested and is awaiting delivery of updated information from Lucent.
3. I have read the foregoing "Supplement to Petition for Waiver of Section 20.18(g) of the Commission's Rules." I have personal knowledge of the facts set forth therein, and believe them to be true and correct.

_____/s/_____
John Smith

November 11, 2003
Date

Exhibit 1

Ron Whinery's Discussion Notes September 23, 2003 Conference Call on New Mexico Wireless E911

Participants

John Smith (Leaco)

Ron Whinery (State Contractor)

Bill Harris (Dept. of Finance and Administration)

Art Ross (Dept. of Finance and Administration)

----- Original Message -----

From: "Ron Whinery" <RonWhinery@bellsouth.net>

To: <jsmith@leaconet.com>

Cc: <Art.Rios@dfa.state.nm.us>; <William.Harris@dfa.state.nm.us>;
<ronwhinery@bellsouth.net>

Sent: Tuesday, September 23, 2003 1:09 PM

Subject: NOTES - New Mexico Discussion - LEACO

John,

Thank you for spending a few minutes to discuss the New Mexico DFA's information request. Attached are notes from our discussion. If you have any questions or comments, please call. -- Ron

Ron Whinery

770-594-9911 office

770-639-9911 portable

LEACO – Discussion Notes
New Mexico Wireless Enhanced 9-1-1
September 23, 2003

Participants

John Smith 505-433-4720
Ron Whinery 770-594-9911

Copy

Bill Harris 505-827-4992
Art Rios 505-827-4900

Since LEACO does not have network coverage in any counties that have funding approved for '04, this is not a current priority. However, I wanted LEACO to be aware of the discussions being conducted with other WSPs.

New Mexico would like to obtain the following information from each Wireless Service Provider (WSP):

1. LEACO's NPA-NXX-line number ranges used for wireless in the state of New Mexico,
2. List of LEACO New Mexico resellers, their contact information, and the approximate number of customers,
3. LEACO is requested to provide a written procedure of the process it plans to use/recommends when responding to and communicating with PSAPs that have identified an exigent situation. Once all WSPs have submitted their proposed plan, be prepared to discuss and agree upon one procedure for all carriers and PSAPs to use throughout New Mexico. *A. I indicated it would not be necessary to furnish. A coordinated procedure/process will be developed and shared with all PSAPs and WSPs.*
4. LEACO has been requested to furnish an electronic copy of their New Mexico cell site data to allow development of the mapping layer of the database (Note: the maintenance process will take care of additions/changes). *A. I indicated this would not be required from LEACO at this time. The LEACO network has 23 cell sites and because of the small coverage area, most are boarder sites. For Phase II a network based solution would not allow triangulation. Therefore, a GPS assisted handset solution appeared to be the only alternative, but no handset manufacturer is producing TDMA GPS assisted handsets.*
5. LEACO is requested to furnish a proposed cost recovery plan and a detail explanation of their NRC and MRC components. *A. The Lucent proposal for retrofit of WE911 software is \$113,000. LEACO already has Qwest connectivity to Albuquerque, so designating a T1 is not be a problem. Currently, the connection is to the Hobbs S/R and LEACO is providing CallerID via SS7 and the cell site sector information.*

The New Mexico Cost Recovery fund is not sufficient or set up to handle NRCs. If there are any NRCs, all WSPs are requested to develop an amortization plan to bring the MRC + amortization component up to approximately 10-12 cents per subscriber per month.

Ron provided a copy of the FY '04 enhanced 9-1-1 priority schedule and map of jurisdictions approved for funding by the Board of Finance May 13th.

LEACO

Wireless Service Provider Coverage/Scope by County - New Mexico

FIPS	Fiscal Year Priority	County	POPs (2000 US Census)	MSA/RSA Name	FCC Licensed Coverage - "Y" only	Actual Network Coverage - "Y" only	Total Number of Customers Including Prepaid	MSC Type - Lucent Motorola Nortel Other	MSC Location - City	Number of Cell Sites	NRC	MRC
35015		Eddy	51,658	Lincoln, NM-6	Y	Y	230	Lucent	Hobbs	4		
35025		Lea	55,511	Lincoln, NM-6	Y	Y	6,821	Lucent	Hobbs	12		
35005		Chaves	61,382	Lincoln, NM-6	Y	N	0	Lucent		0		
35027		Lincoln	19,412	Lincoln, NM-6	Y	N	0			0		
35001	'04-0	Bernalillo	556,678	Albuquerque, NM								
35028	'04-1	Los Alamos	18,343	Santa Fe, NM-4								
35043	'04-1	Sandoval	89,908	Albuquerque, NM								
35045	'04-1	San Juan	113,801	San Juan, NM-1								
35049	'04-1	Santa Fe	129,292	Santa Fe, NM-4								
35057	'04-1	Torrance	16,911	Santa Fe, NM-4								
35061	'04-1	Valencia	66,152	Catron, NM-3								
35013	'04-2	Dona Ana	174,682	Las Cruces, NM								
35023	'04-2	Hidalgo	5,932	Grant, NM-5								
35029	'04-2	Luna	25,016	Grant, NM-5								
35007	'04-3	Colfax	14,189	Colfax, NM-2								
35009	'04-3	Curry	45,044	Santa Fe, NM-4								
35021	'04-3	Harding	810	Colfax, NM-2								
35037	'04-3	Quay	10,155	Santa Fe, NM-4								
35041	'04-3	Roosevelt	18,018	Santa Fe, NM-4								
35059	'04-3	Union	4,174	Colfax, NM-2								
35003		Catron	3,543	Catron, NM-3								
35006		Cibola	25,595	San Juan, NM-1								
35011		DeBaca	2,240	Santa Fe, NM-4								
35017		Grant	31,002	Grant, NM-5								
35019		Guadalupe	4,680	Santa Fe, NM-4								
35031		McKinley	74,798	San Juan, NM-1								
35033		Mora	5,180	Colfax, NM-2								
35035		Otero	62,298	Lincoln, NM-6								
35039		Rio Arriba	41,190	San Juan, NM-1								
35047		San Miguel	30,126	Santa Fe, NM-4								
35051		Sierra	13,270	Catron, NM-3								
35053		Socorro	18,078	Catron, NM-3								
35055		Taos	29,979	San Juan, NM-1								
			1,819,047				7,051			16	0	0

Exhibit 2

Vendor Correspondence re: Unavailability of TDMA Handsets



BRIGHTPOINT

Brightpoint North America L.P.

Howard Shapiro
Bennet & Bennet, PLLC
Tenth Floor
1000 Vermont Avenue, N.W.
Washington, DC 20005

Dear Mr. Shapiro:

Brightpoint is a wholesaler of wireless equipment. Our clients include smaller wireless carriers that do not purchase equipment, such as handsets, in large enough quantities to obtain volume discounts directly from equipment manufacturers. As a wholesaler, Brightpoint makes equipment available from a number of different manufacturers.

In response to your inquiry, this letter will confirm that Brightpoint does not currently have any TDMA handsets containing handset-based location technology in its inventory of products.

Please let me know if you have any questions.

Sincerely,

David C. McKenna

David McKenna
Sr. Director of Purchasing

----- Original Message -----

From: <sglanton@leaco.org>

To: <jsmith@leaconet.com>

Sent: Friday, November 07, 2003 4:05 PM

Subject: Fw: gps phones

---- Message from "Mark Manske" <markm@ncicellular.com> at Fri, 7 Nov 2003

15:50:29 -0600 -----

NCI is not shipping GPS/911 phones due to the lack of this technology in the TDMA format.

Mark Manske

NCI Cellular

800-669-8070 Ext.203

www.ncicellular.com

----- Original Message -----

From: <sglanton@leaco.org>

To: <jsmith@leaconet.com>

Sent: Friday, November 07, 2003 12:59 PM

Subject: Fw: cell phones

---- Message from "Greg Sebert" <gregs@pcicorp.com> at Thu, 6 Nov 2003

11:22:31 -0600 -----

Cheryl,

The tdma, gps, handsets are not available for e911.

Greg Sebert

Progressive Concepts

800-245-4411